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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,508	12/26/2000	Robert H. Willis	BS99-184	9790

7590 11/04/2005

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EXAMINER

KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/746,508	Applicant(s) WILLIS ET AL.	
	Examiner James A. Kramer	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,5,7,10,11 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,5,7,10,11 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/5/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/16/05 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 5, 7, 10, 11, and 19-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Pruett et al.

Pruett et al. teaches a combination system for provisioning and maintaining telephonic network facilities in a public switched telephone network. Pruett et al. specifically teaches a Caseworker obtaining a description of a customer trouble (column 40; lines 47-49). With this information the Casework builds a trouble report profile which is forwarded to Dispatch (column

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42; lines 51-53) where a technician is sent. Examiner notes that this relates to applicant's receiving reports or malfunctions and dispatching technicians in response to the reports.

Pruett et al. further teaches that the field technician determines any related trouble reports stored in Dispatch. The field technician closes out the Trouble Report by entering the trouble found, work done and cause descriptions (column 43; lines 41-45). Examiner notes that this represents receiving, via a communications network, information sent by the technician upon diagnosing a malfunction at a first subscriber location, wherein the information is provided in an electronic format, and identifies a cause of the malfunction underlying one of the reports of malfunction sent from the vicinity of the first subscriber location.

Pruett et al. further teaches that the reactive maintenance system is able to collate and group related reactive and proactive troubles, as well as determine whether technicians are currently working on a recently reported reactive trouble (e.g. column 53; lines 12-15). This has the additional benefit of allowing caseworkers to determine that a trouble from a customer is already being worked (e.g. column 40; lines 62-67). Examiner notes that this relates to determining, by the dispatch division (Caseworker) and based upon information sent by the technician upon diagnosing the malfunction at the first subscriber location, that a cause underlying another report, received from a location different from the first subscriber location is the same cause as the first location.

Pruett et al. also teaches information recorded by the caseworker or the field technician is automatically sent to other systems as needed. For example time and materials charges are sent to a billing function (col. 43, lines 55-57).

Pruett et al. is silent as to who receives the billing from the Billing Function.

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The common knowledge or well-known in the art statement made by the Examiner in the Office Action mailed 5/12/05 is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of Official Notice or the traverse was inadequate (MPEP2144.03(C)).

Examiner relies on the Admitted Prior art that it is old and well known for a responsible party to be billed for all costs incurred, even indirectly. As way of example, Examiner offers that in a car accident, the responsible party is billed not only for the car they hit, but also for any other damages that are incurred as a result of the accident (i.e. other cars hit, injuries etc).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the billing function of Pruett to bill the responsible party for all costs incurred as a result of their negligence including any service calls made in response to that damage. One of ordinary skill would have been motivated to modify the reference in order to recover all costs caused by the responsible party.

Response to Arguments

Applicant's arguments filed 8/16/05 have been fully considered but they are not persuasive.

Applicant asserts that claims 2, 4, 5, 7, 11 and 19-24 stand rejected under 35 USC 102(b) as being anticipated by Pruett and that it is stated that Pruett discloses all the elements. Examiner notes that this is incorrect. The claims stand rejected under 35 USC 103(a) as unpatentable over

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Pruett et al. (in view of Official Notice). Examiner notes that this is a very important distinction which will apply to the discussion below.

Applicant further asserts that the whole point of Pruett is to eliminate costs associated with the grouped malfunctions by correlating alarms so that there is no need to dispatch technicians. Thus, Applicant asserts that Pruett does not disclose costs for multiple malfunctions per cause because by using alarms to find malfunctions and using SA to correlate alarms, there are no multiple malfunction costs. Examiner respectfully disagrees and points out that this is the same function of Applicant's invention, for example see Specification page 14, lines 16-19. Further, Examiner asserts that, like Applicant's invention, until an cause is found the company will continue to dispatch technicians, therefore there clearly will be multiple malfunction costs.

Applicant further asserts that Pruett fails to teach billing an entity responsible for the cause. Examiner once again notes that the rejection of the claims in the Office Action is not under 35 USC 102(b) but rather under 35 USC 103(a). In fact Examiner stated in the Final Office Action submitted 5/12/05 "Pruett is silent on who receives a bill from the Billing Function. As a result, Examiner agrees that Pruett fails to specifically disclose this recitation. However, Examiner specifically addresses recitation in the rejection under 37 USC 103(a) utilizing the *Graham v John Deere Co.* factual inquiries."

Applicant further asserts that Pruett fails to teach looking up a range of line numbers associated with a cause and finding that a first line number falls within the range. Examiner

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respectfully disagrees and relies on Pruett column 40, lines 40-67. Pruett teaches "the caseworker answers the phone and obtains the affected telephone number or circuit number."

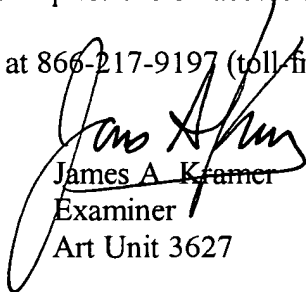
Examiner notes that this represents Applicant's line number.

Pruett further teaches if the Caseworker decided that an entire cable has become defective as is currently being repaired, the Caseworker can inform the customer the trouble is being worked. Examiner notes that the entire cable represents Applicant's range of line numbers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James A. Kramer
Examiner
Art Unit 3627

10/31/05

jak